

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY S D.C.
05 AUG 24 AM 8:26
THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, JACKSON

DAVID DROKE,

Plaintiff,

VS.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

No. 02-1284-T/An

ORDER REQUIRING ADDITIONAL DOCUMENTATION

On July 25, 2005, plaintiff David Droke filed a motion for an award of attorney fees under the Social Security Act, 42 U.S.C. § 406(b). The Commissioner has filed a response objecting to the amount of the requested fee, and plaintiff has filed a reply to that response.

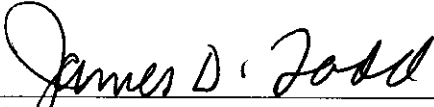
The basis of plaintiff's fee request is a contingent-fee agreement pursuant to which counsel would receive 25% of any past-due benefits. Under Gisbrecht v. Barnhart, 535 U.S. 789 (2002), the Court must review for reasonableness the fee that would result from such an agreement.


The Supreme Court noted in Gisbrecht that district courts may require counsel to submit, as an aid to assessing the reasonableness of the requested fee, "a statement of the lawyer's normal hourly billing charge for noncontingent-fee cases." Id. at 808. In addition, although counsel has submitted an affidavit from the plaintiff in this case stating that he

agreed to a 25% fee, the Court has not been provided with a copy of the actual contingent-fee contract.

Therefore, in order to assist the Court in determining the reasonableness of the requested fee, plaintiff is hereby ORDERED to submit, within ten days after the entry of this order, both a copy of the contingent-fee contract in this case and an affidavit from counsel containing a statement regarding his regular hourly rate in noncontingent-fee matters.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE


DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 34 in case 1:02-CV-01284 was distributed by fax, mail, or direct printing on August 24, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT